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CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH

ORIGINAL APPLICATION NO. 218/2006
JODHPUR THIS DAY 08 April, 2010

HON'BLE Dr. K.S. SUGATHAN, ADMINISTRATIVE MEMBER
HON'BLE Dr. K.B. SURESH, JUDICIAL MEMBER

1. Mrs. Nisha Mathur W/o Shri Basant Mathur, aged 43 years, by caste Mathur, R/o House No.372, Kamla Nehru Nagar, Jodhpur.
2. Mrs. Babita Choudhary W/o Shri Darshan Singh, by caste Choudhary, R/o Q.No.92/93, Kirti Nagar, Krishi Upaj Mandi Road, Jodhpur.
3. Mrs. Sudha Mathur W/o Shri Sandeep Mathur, R/o Bhagat ki Kothi, Near Power House, Pali Road, Jodhpur.

All applicants as a Civil Switch Board Operators, at Military Exchange, Jodhpur.

.... Applicants

For Applicant: Harish Purohit, Advocate.

VERSUS

1. The Union of India, through the Secretary to Government of India, Ministry of Defence, Sena Bhawan, New Delhi-110 001.
2. The Director General of Signals, G.S. Branch, Signals-4 (c), Army Head-Quarters, New Delhi.
3. The Officer-in-charge (Records), Signal Records, Jabalpur (M.P.).
4. The Administrative Commandant, Station Head-quarters Signals, Jodhpur.

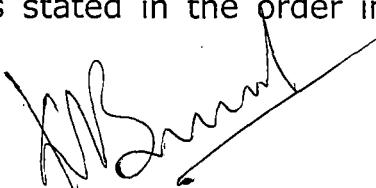
.... Respondents.

For Respondents: Mr. M. Godara, proxy counsel for
Mr. Vinit Mathur, Advocate.

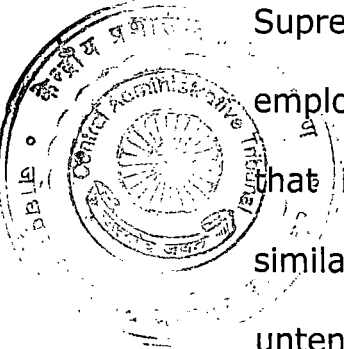
ORDER (ORAL)
[PER Dr. K.B. SURESH, MEMBER (J)]

Heard both the counsel.

2. The factual matrix necessary to be noticed for adjudication of this application is stated in the order in OA No.133/1987 of this



Tribunal as it deals with same and similar matters. The applicants herein would claim the cause of action and relief as similarly placed and similarly situated employees represented therein and therefore would rely upon the judgment of the Hon'ble Supreme Court in *Food Corporation of India and Others vs. Ashis Kumar Ganguly and Others* (2009) 2 SCC (L&S) 413. That case also related to discrimination in granting of benefit to one set of employees and denying it to the other set of employees. But both sets were governed by same rules/orders regarding benefits payable to them, learned counsel for the applicants submits that similar is the case here also. He also relied upon the judgment of the Hon'ble Supreme Court in *Purnendu Mukhopadhyay and others vs. V.K. Kapoor and others* (2009) 2 SCC (L&S) 506. There, the Hon'ble Supreme Court dealt with the effect of the similar two set of employees and held categorically that the stand of the Government that it has granted benefit to one set of employees who was similarly situated to the other but it was denied to others, as untenable. The Hon'ble Supreme Court had further held that such an action is wholly unjustified. Judgments of the Court should not be read as a statute, it has to be read in its entirety. It was also held that the parties therein become entitled to grant of benefits contemplated thereby, as there is no reason why the same should be denied to them. The State cannot treat employees similarly situated differently; it cannot implement the orders in relation to some employees and refuse to do so in relation to others. Therefore, the learned counsel for the applicants submits that Article 14 may be applicable in this matter as person similar to

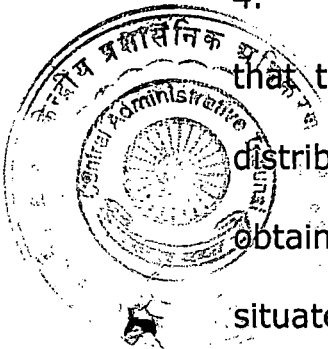


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applicants have been granted similar benefits as the applicants claim for, who are beneficiary in OA No.133/1987.

3. We heard learned counsel for the respondents, he would submit that even though parties were similar in their function and nature, in this case parties have not applied to respondents before coming to the Tribunal. The counsel for applicant points out that infact they submitted a representation but it was rejected on the ground that the person through whom they submitted representation seems to be an unrecognized trade union. The Trade Union Act stipulates that seven persons can constitute a trade Union. Recognition of such union is not considered as significant. Therefore, the applicants must be held to have sought similar treatment.

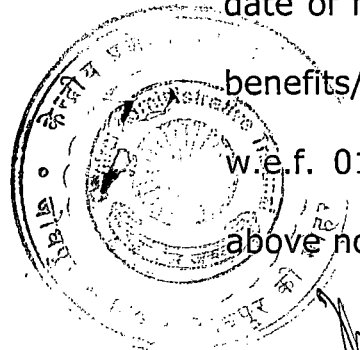
4. Learned counsel for the respondents also relied upon the fact that the benefit as is stated in OA No.133/1987 was selectively distributed and is often only to those people who claimed and obtained benefit were the beneficiary, even though other similarly situated were also to be served by the same benefit. He would further state that after taking into the consideration of Sixth Pay Commission report which had considered all this aspects also and therefore, a reconsideration of that in terms of the applicants' relief to be granted may not arise. But Hon'ble Supreme Court has clearly found that the there cannot be any discrimination. Therefore, we hold that the applicants herein are also entitled to the same benefits as is given in OA No.133/1987. But at the same time we take note of the fact that the respondents have raised an



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objection that applicants were given option to raise individual disputes. The claim of the applicants, therefore, cannot go beyond the date of filing of the original applications.

5. Therefore, we direct the respondents to give benefits to the applicant as allowed to in OA No.133/1987 with all notional benefits. But we restrict pay and other allowance arrears from the date of filing of this Original Application i.e. 21.09.2006 only. The benefits/pay whatever already been granted to the applicants w.e.f. 01.01.1996, shall not be disturbed. The OA is allowed as above no order as to costs.



[Signature]
[Dr. K.B. SURESH]
JUDICIAL MEMBER

[Signature]
[Dr. K.S. SUGATHAN]
ADMINISTRATIVE MEMBER

Received Copy

Dhruv
20/4/10
for - Harish Purohit Adh

9/13/14